

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JAMES C. JUSTICE, III, et al.

Plaintiffs,

V.

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT,
UNITED STATES DEPARTMENT OF
THE INTERIOR,**

Defendant.

Civil Action No. 7:19-cv-00381

**SECOND CONSENT MOTION FOR EXTENSION OF TIME TO RESPOND TO
DEFENDANT’S MOTION TO DISMISS**

COMES NOW, the Plaintiffs, A & G Coal Corp., Bluestone Coal Corporation, Chestnut Land Holdings, LLC, Kentucky Fuel Corporation, National Coal, LLC, Premium Coal Company, Incorporated, S and H Mining, Inc., Tams Management, Inc., and James C. Justice, III (collectively the “Plaintiffs”), through counsel, respectfully submit their Consent Motion for Extension of Time to Respond to the Defendant’s Motion to Dismiss.

1. On November 12, 2019, the Defendant moved to dismiss in this matter. (Dkt. No. 22).

2. Pursuant to Local Rule 11(c)(1): “[u]nless otherwise directed by the Court, the opposing party must file a responsive brief and such supporting documents as are appropriate within 14 days after service, and the moving party may file a rebuttal brief within 7 days after the service of the opposing party’s reply brief.”

3. Co-counsel for the Plaintiff, Richard Getty, was recently hospitalized for back related issues (including back surgery), pneumonia, and other related health issues. As such, Mr. Getty has not been able to assist with the drafting and briefing in this case to date.

4. Plaintiffs represent to the Court that counsel for the Defendant has agreed to an extension of the Plaintiffs' deadline to respond until January 7, 2020. This will allow the Plaintiffs sufficient time to seek the input from Mr. Getty as he recovers from his health issues.

5. Good cause exists to extend the filing deadlines.

6. A proposed order encompassing the requested relief is attached hereto as Exhibit A.

WHEREFORE, Plaintiff request that the Court enter the attached draft Order granting the extension for the filing of the Plaintiffs' response related to the Defendant's Motion to Dismiss.

Respectfully submitted,

/s/ Aaron B. Houchens

AARON B. HOUCHENS (VSB #80489)

AARON B. HOUCHENS, P.C.

111 East Main Street

P.O. Box 1250

Salem, Virginia 24153

Telephone: (540) 389-4498

Facsimile: (540) 339-3903

aaron@houchenslaw.com

And

RICHARD A. GETTY

(*Pro Hac Vice* Admission)

THE GETTY LAW GROUP, PLLC

1900 Lexington Financial Center

250 West Main Street

Lexington, Kentucky 40507

Telephone: (859) 259-1900

Facsimile: (859) 259-1909

Email: rgetty@gettylawgroup.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this 17th of December 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and the foregoing was sent to the following:

Krista Consiglio Frith
Assistant United States Attorney
United States Attorney's Office for the Western District of Virginia
BB&T Building
310 First Street, S.W. Room 906
Roanoke, VA 24008
540-857-2250
Fax: 857-2179

/s/ Aaron Balla Houchens